

TOWN OF HILL BOARD OF ADJUSTMENT
HILL, NEW HAMPSHIRE 03243

RULES OF PROCEDURE

- I. NAME: The name of the board shall be the "Town of Hill Board of Adjustment" as established by Article VIII of the Town of Hill Zoning Ordinance of 1973 adopted by the Town Meeting of March, 1973. It shall be understood that within these rules the terms 'Board of Adjustment', 'Zoning Board of Adjustment' and 'Board' shall mean the Town of Hill Board of Adjustment.
- II. AUTHORITY: These rules of procedure are adopted in accordance with RSA 676:1 and 676:2 I.
- III. DUTIES: The powers of the Board of Adjustment (RSA 674:33) are the following:
 - o Hear and decide appeals if it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16, and
 - o Authorize upon appeal in specific cases such variance from the terms of the zoning ordinance as will not be contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done, and
 - o In appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.
 - o Hear and decide appeals from a decision to deny a permit to , erect a building on a Class VI road (RSA 674:41 II).
- IV. ORGANIZATION: The Board of Adjustment shall consist of five members and three alternates appointed by the Board of Selectmen.
 - A. Terms of appointment shall be for three years and shall be staggered so that the terms of no more than two members and one alternate shall terminate at Town Meeting each year.
 - B. All members and alternates must be sworn in by the Town Clerk prior to sitting on the Board.
 - C. Selection, qualifications, disqualification, removal and the filling of vacancies of members (and alternates) shall conform with RSA 673.
 - D. Officers of the Board shall be elected from the members by majority vote at the Annual Meeting to serve for a term of one year; vacancies of officers shall be filled by majority vote as required.

V. OFFICERS: The officers of the Board of Adjustment shall consist of Chairman, Vice Chairman, Recording Secretary and Clerk/Treasurer, except that a single member may serve as both Recording Secretary and Clerk/Treasurer.

A. The Chairman shall preside over all meetings of the Board, ensure that all proceedings are in accordance with State statute and ordinances and regulations of the Town, present an annual report (as of December 31st) to the Board for inclusion in the Town Report, and appoint committees comprised of at least one member of the Board and other residents as appropriate.

B. The Vice-Chairman shall assume all duties and responsibilities of the Chairman in his absence and perform such other duties as may be assigned by the Chairman.

C. The Recording Secretary shall be responsible to keep a full and accurate record of proceedings of all meetings, to cause to be recorded all regulations and rules and changes thereto and to assist the Chairman as necessary.

D. The Clerk/Treasurer shall be responsible to-

- o Receive all applications and correspondence on behalf of the Board, to post and/or have published public notices and to cause to be mailed all abutters' notices,
- o Maintain the files and records of the Board,
- o Manage the petty cash fund for miscellaneous expenses (paper, copying, phone calls, stamps and certified mailings, etc.), to maintain an itemized record of all transactions and to request additional funds from the Board of Selectmen as necessary,
- o Record and transmit promptly all miscellaneous receipts to the Board of Selectmen, and
- o Present all invoices chargeable to the Board to the Board of Selectmen for payment.

VI. MEETINGS:

A. Meeting Schedules. Regularly scheduled meetings of the Board of Adjustment are not contemplated at this time.

(1) Special meetings of the Board shall be called by the Chairman, or upon the request of two voting members, or upon receipt of a request for a joint meeting. A joint meeting with another land use board (as provided in Section IX below) shall be a special meeting, except that it shall be called only upon a concurring vote of at least three members of the Board.

(2) The Annual Meeting of the Board of Adjustment shall be called within thirty days after Town Meeting. This meeting shall be called to order by the member having the longest total service on the Board, and the election of officers shall be held immediately thereafter and such officers installed.

(3) The public, abutters and all members shall be notified at least ten (10) days in advance of any meeting.

B. Order of Business

(1) For each meeting, the order of proceedings shall be as follows:

- o Approval of minutes of the previous meeting
- o Secretary's report
- o Treasurer's report
- o Chairman's report
- o Committee reports
- o Reading of communications directed to the Board
- o Unfinished business/continued hearings
- o New Business/initial hearings
- o Adjournment

(2) Specific agenda items may be accepted and scheduled by either the Chairman or the Secretary.

(3) Public hearings shall be scheduled no earlier than fifteen minutes after the convening of a meeting in order to permit the Board to conduct its regular business. If, however, the Board has not completed its business, the business session shall be suspended until after the scheduled hearing(s).

C. Rules of Order

(1) When there is an absence on the Board and the Chairman has seated an alternate, that alternate shall assume all the duties of a member for that meeting.

(2) Three voting members shall constitute a quorum for the transaction of business, except that a lesser number may meet and adjourn.

(3) The concurring vote of three (3) members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass (RSA 674:33 III).

(4) A ruling of the Chairman may be overturned by a vote of a majority of the members present.

(5) At any time that a member of the Board believes that advice of legal counsel is appropriate on an issue being addressed by the Board, he shall raise the issue promptly. The Board may by vote direct that the Chairman obtain authorization from the Board of Selectmen to place the matter before Town Counsel for a formal opinion. No member of the Board except the Chairman shall contact Town Counsel with out prior vote of the Board.

(6) No member of the Board except the Secretary is authorized to convey a decision to any party prior to approval of the minutes or release of the Notice of Decision, whichever is earlier.

(7) No member of the Board shall incur any expense chargeable to the Board without prior Board approval. Prior to any expense in excess of \$25, a purchase order shall be obtained from the Board of Selectmen and a copy provided to the Clerk/Treasurer of the Board of Adjustment.

(8) Any of these rules may be suspended at any meeting for that meeting or for a portion of that meeting by a vote of no less than three (3) of the members present.

D. Disqualification of Member

(1) If any member finds that it is necessary to disqualify himself from sitting in a particular case, as provided in RSA 673:14 I, he shall notify the chairman as soon as possible so that an alternate may be designated to sit in his place.

(2) When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or any other member of the Board may request that the Board vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The voter shall be advisory and non-binding. (RSA 673:14 II)

(3) The disqualification shall be announced by either the chairman or by the member disqualifying himself before the beginning of the public hearing on the case. The disqualified member shall absent himself from the board table during the hearing and during all deliberation on the case.

VII. APPLICATION, HEARINGS & DECISIONS:

A. Applications

(1) Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Clerk of the Board of Adjustment who shall record the date of receipt over his signature.

(2) Appeals from an administrative decision taken under RSA 676:5 shall be filed with the Clerk of the Board within 45 days of the decision.

(3) Application for a special exception to the zoning ordinance may be made directly to the Clerk of the Board at any time. Such application shall include a request to both the Planning Board and to the Board of Adjustment for a joint hearing (see Section IX).

(4) In those instances where a dimension specified in the zoning ordinance is of concern, a plat or suitable sketch shall accompany the application.

(5) Every application shall be accompanied by a current list of abutters complete with mailing addresses.

(6) Every application shall be accompanied by a check made payable to the Town of Hill or cash sufficient to defray all costs to the Board of Adjustment, specifically the cost of notification [see Section VII B & D (7)]. Failure to pay for such costs in advance shall constitute grounds to terminate the case and deny approval without a public hearing (RSA 676:7 IV)

(7) The public hearing shall be scheduled by the Clerk of the Board within 30 days of receipt of the notice of appeal or application for special exception.

B. Notice of Hearings

(1) Hearings before the Board of Adjustment shall be held in the Town Hall, on a date and at a time selected by the Clerk/Treasurer and agreeable to a majority of the Board (telephone poll).

(2) Public notice of public hearings on each application shall be given by the Clerk of the Board to each abutter as defined in RSA 672:3 and the applicant/appellant by certified mail/return receipt requested (or equal); to other land use boards, the Board of Selectmen and to the administrative official as appropriate by certified mail; and to the public by paid advertisement in the Telegram (Franklin) and the Enterprise (Bristol) and by posting public notices at the Hill Town Hall and the Hill Post Office (ZIP 03243).

(3) Notice shall include the name of the applicant, description of property (including Tax Map identification), action requested by applicant, the provision of the zoning ordinance concerned, the type of appeal and the date, time and place of the public hearing.

(4) Notices will be posted, mailed or delivered no later than 10 days prior to the public hearing.

C. Order of Proceedings for Public Hearings

- o Call to order by the Chairman and statement of the purpose of the hearing
- o Roll call of the Board and identification by name of all abutters present (regardless of whether they wish to speak on the matter) by the Secretary
- o A review by the Chairman and/or Clerk/Treasurer of all administrative elements of the application or action being heard
- o A brief explanation by the applicant or designated agent of the proposed action
- o Questions from the Board necessary to understand the request
- o Questions from abutters and the public necessary to understand the request
- o Responses from the applicant/agent to resolve questions of definition of the request
- o Comments from abutters required to be notified under RSA 672:3
- o Comments from other qualified abutters under RSA 672:3
- o Comments from the public
- o Comments from the Board
- o Response/rebuttal from the applicant/agent to comments, only if the applicant/agent so desires
- o Summary by the Chairman
- o Discussion by the Board
- o Motion and vote by the Board to render a decision and/or to continue the matter to another meeting time
- o Adjournment/recess of the hearing

D. Decision

(1) The Board shall decide all cases within 14 days after the conclusion of the public hearing. When practical, however, a decision may be made immediately following the public hearing.

(2) The Board may choose to deliberate in executive session prior to voting on a decision. However, all the conditions and procedures of RSA 91-A shall be met.

(3) In formulating its decision the Board shall prepare a Statement of Reasons in each case, such statement to address each condition required to be met, the facts (both pro and con) presented at the hearing which relate to those conditions and the basis for the decision.

(4) The Board vote on the decision shall take place in a duly announced open meeting of the Board.

(5) The Board shall exercise its full powers under RSA 674:33 II when formulating its decision.

(6) If conditions are made a part of the decision, such conditions which can be considered 'precedent' shall be met before approval is granted.

(7) The Notice of Decision shall be posted at the Hill Town Hall and filed with the Town Clerk within 72 hours after the decision is made. Further, such notice shall be furnished to the applicant/appellant by certified mail/return receipt requested (RSA 676:3).

E. Inactive Applications

Any application brought before the Board of Adjustment for which the applicant/appellant fails to provide the Board with requested information within sixty (60) days or written advice stating that said information is being obtained but will require a specified period of additional time shall be denied without further public hearing.

VIII. RECORDS

A. The records of appeals and applications for special exception shall be kept by the Clerk of the Board and shall be available for public inspection by appointment with the Clerk.

B. A complete file on any case shall consist of the completed application, evidence of notice to abutters and to the public, copies of minutes of the public hearing and any documents submitted at such hearing, statement of reasons and the notice of decision. The date of each component shall be indicated.

C. All completed records shall be maintained in a secured cabinet at the Hill Town Hall.

IX. JOINT MEETINGS/HEARINGS: Joint meetings/hearings are permitted under RSA 676:2 I. Such joint meeting may be requested by an applicant if he can show that two or more land use boards have responsibilities in the matter. Additionally the Board of Adjustment may on its own initiative request a joint meeting with another land use board. On the other hand the Board of Adjustment also shall have the discretion as to whether or not to hold a joint meeting requested by an applicant or another land use board. *Requests for joint meetings shall be addressed by the Board of Adjustment within twenty (20) days at a special meeting, if necessary.* There are two clear instances in the Zoning Ordinance where a joint meeting with the Planning Board may be appropriate:

A. Request for Special Exception. Article VIII D of the Zoning Ordinance expressly involves the Planning Board in an advisory role. In such instances, the applicant shall first apply to the Board of Adjustment, and if a joint meeting is to be held, the following procedures shall apply:

- o Notice of the joint meeting shall be issued by the Board of Adjustment
- o The joint meeting shall be chaired by the Chairman of the Board of Adjustment
- o The Board of Adjustment shall maintain its own record of the joint proceedings
- o Upon a vote of the members, the Planning Board may adjourn and withdraw from the meeting after it has met its obligation under Article VIII D of the Zoning Ordinance
- o In order to facilitate the Planning Board in carrying out its duty under Article VIII D of the Zoning Ordinance, the applicant shall furnish adequate definition of the proposal, and may be required to include an accurately drawn sketch of the entire parcel at a scale no less than 1 inch equals 100 feet, topographic contours at no less than 20 foot intervals, layout of all proposed streets and driveways, sites and overall dimensions of all proposed structures, location of all exposed ledge, wetlands and slopes in excess of 15%, and a written statement of the proposed use

B. Request for Variance in order to Qualify for a Sub-Standard Subdivision. If the purpose of the variance requested under Article VIII E of the Zoning Ordinance is ultimately to qualify for a subdivision, the Planning Board has a decisive role. In such instances, the applicant shall file the request for variance with the Board of Adjustment and the application for subdivision along with a copy of the application for variance with the Planning Board concurrently; and if a joint meeting is to be held, the following procedures shall apply:

- o Notice of the joint meeting shall be issued by the Planning Board
- o The joint meeting shall be chaired by the Chairman of the Planning Board
- o The Board of Adjustment shall maintain its own record of the joint proceedings
- o The applicant shall comply with all of the provisions of the Hill Subdivision Regulations, except those addressed by the requested variance
- o The Board of Adjustment upon a vote of its members may adjourn and withdraw from the joint meeting after it has issued its decision on the variance requested

X. REHEARINGS

A. A rehearing may be requested within twenty (20) days of any order or decision of the Board of Adjustment by the selectmen, any party to the action or proceedings or by any person directly affected thereby. (RSA 677:2)

B. A request for rehearing shall specify any and all grounds upon which it is claimed that the action or decision is unlawful or unreasonable (RSA 677:2). Such request shall clearly indicate why any new information to be presented was not made available at the original hearing. Any ground not set forth in such request shall not be given consideration (RSA 677:3 I).

C. The Board of Adjustment shall act to either grant or deny such request, or to suspend the order or decision pending further consideration, at a duly announced public meeting held within ten (10) days of receipt by the Clerk of the Board of such request. (RSA 677:3 II)

D. In those instances wherein the Board of Adjustment decides to grant a rehearing, the party making the appeal shall immediately thereafter provide the Clerk of the Board the list of abutters and other parties recognized by the Board as affected by the action appealed along with current mailing addresses, and cash or a check made payable to the Town of Hill sufficient to defray all the costs of public and personal notice as required in Section VII B & D(7). Failure to pay such costs shall constitute valid grounds for the board to deny such appeal without public rehearing (RSA 676:7 IV).

E. A rehearing granted by the Board of Adjustment shall be held within thirty (30) days of the decision to grant such rehearing.

F. A Statement of Reasons and Notice of Decision shall be given as required in Section VII D, whether the request for rehearing is granted or denied.

XI. OTHER MATTERS:

A. Approved revisions of regulations and rules of procedure shall be filed promptly by the Secretary with the Town Clerk to be transmitted to the Registry of Deeds as required. Copies shall be furnished to the Town Library, Board of Selectmen, and other town land use boards.

B. In general the Chairman and at least one other member of the Board will carry out site visits. On rare occasions the entire Board may vote to carry out a site inspection, in which case the owner of the property shall be advised by the Clerk/Treasurer in advance.

C. Any member unable to attend a Board meeting shall be responsible to notify the Chairman or the Clerk/Treasurer in advance, and that officer shall request an alternate to attend for each member absent.

D. Minutes shall be recorded promptly by the Secretary. If the minutes arise from a joint meeting, a copy of the unapproved Board of Adjustment minutes shall be provided promptly to each other land use board involved. Typewritten copies of the minutes shall be provided to each member at the following meeting prior to a vote for approval. Additional copies of approved minutes shall be included in each case action jacket file addressed in those minutes.

E. Keys to the Board of Adjustment files shall be issued to the Chairman and Clerk/Treasurer only.

XII. AMENDMENTS & REVISIONS

These rules may be amended by a majority vote of the members of the Board of Adjustment provided that at least one duly announced public hearing citing the nature of the proposed changes has been held. In an instance where a substantial modification of a proposed change results from such public hearing, a second duly announced hearing shall be conducted. The vote on adoption shall occur immediately following such hearings.

Adoption Verification

These Rules of Procedure have been adopted by the Hill Board of Adjustment on September 26, 1990, after a duly noticed public hearing(s).

Board of Adjustment Certification -

John P. Chandler
David L. [Signature]
Robert B. Mowell

Cynthia A. Rohie
Elaine Seibel